



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

[SATS No. KS-030-FOR; Docket ID: OSM-2019-0002; S1D1S SS08011000 SX064A000 190S180110; S2D2S SS08011000 SX064A000 19XS501520]

Kansas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are announcing receipt of a proposed amendment to the Kansas regulatory program (Kansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Kansas proposes revisions to its Ownership and Control rules, and additional revisions made for organizational clarity. Kansas intends to revise its program to be as effective as the Federal regulations. This document gives the times and locations where the Kansas program documents and this proposed amendment to that

program are available for your inspection, establishes the comment period during which you may submit written comments on the amendment, and describes the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., CST, [INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If requested, we will hold a public hearing on the amendment on [INSERT DATE 25 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. We will accept requests to speak at a hearing until 4 p.m., CST on [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by SATS No. KS-030-FOR, by any of the following methods:

- *Mail/Hand Delivery:* William Joseph, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 1645 South 101st East Avenue, Suite 145, Tulsa, Oklahoma 74128-4629.
- *Fax:* (918) 581-6419
- *Federal eRulemaking Portal:* The amendment has been assigned Docket ID OSM-2019-0002. If you would like to submit comments go to <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to review copies of the Kansas program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSMRE’s Tulsa Field Office, or the full text of the program amendment is available for you to review at www.regulations.gov.

William Joseph, Director

Tulsa Field Office

Office of Surface Mining Reclamation and Enforcement

1645 South 101st East Avenue, Suite 145

Tulsa, Oklahoma 74128-4629

Telephone: (918) 581-6430

Email: bjoseph@osmre.gov

In addition, you may review a copy of the amendment during regular business hours at

the following location:

Kansas Department of Health and Environment

Surface Mining Section

4033 Parkview Drive

Frontenac, KS 66763

Telephone: (316) 231-8540

FOR FURTHER INFORMATION CONTACT: William Joseph, Director, Tulsa
Field Office. Telephone: (918) 581-6430, email: bjoseph@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Kansas Program
- II. Description of the Proposed Amendment
- III. Public Comment Procedures
- IV. Procedural Determinations

I. Background on the Kansas Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, State

laws and regulations that govern surface coal mining and reclamation operations in accordance with the Act and consistent with the Federal regulations. See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior fully approved the Kansas program, as amended, effective April 14, 1982. You can find background information on the Kansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Kansas program in the April 14, 1982, Federal Register (47 FR 16012). You can also find later actions concerning the Kansas program and program amendments at 30 CFR 916.10, 916.12, and 916.15.

II. Description of the Proposed Amendment

By letter dated February 6, 2019 (Administrative Record No. KS-629), Kansas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Kansas submitted the proposed amendment in response to a September 30, 2009, letter (Administrative Record No. KS-627) that OSMRE sent to Kansas in accordance with 30 CFR 732.17(c). OSMRE requested additional information from Kansas in order to complete the initial review of the proposed amendment, which was received on March 11, 2019. Because additional information was required, this March date will be used as the proposed amendment submission date for OSMRE's review. Below is a summary of the changes proposed by Kansas. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES**.

In the September 30, 2009, letter (Administrative Record No. KS-627), OSMRE

notified Kansas that the Kansas program was determined to be less effective than the Federal regulations in the following ownership and control areas:

- 30 CFR 773.8—General provisions for review of permit application information and entry of information into AVS.
- 30 CFR 773.9—Review of applicant and operator information.
- 30 CFR 773.12—Permit eligibility determination.
- 30 CFR 773.25—Who may challenge ownership or control listings and findings.
- 30 CFR 774.11—Post-permit issuance requirements for regulatory authorities and other actions based on ownership, control, and violation information.
- 30 CFR 774.17—Transfer, assignment, or sale of permit rights.
- 30 CFR 778.11—Providing applicant and operator information.
- 30 CFR 847.2—General provisions.
- 30 CFR 847.11—Criminal penalties.
- 30 CFR 847.16—Civil actions for relief.

Kansas proposes to amend its Kansas Administrative Regulations (K.A.R.) to address these deficiencies in the following sections:

- K.A.R. 47-3-42(a)(4), (5), (8), (17), and (22).
- K.A.R. 47-6-4(b).
- K.A.R. 47-6-11(a)(1).
- K.A.R. 47-5-5a(a)(14), (15), and (16).

The remaining changes proposed by Kansas are organizational in nature.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Electronic or Written Comments

If you submit written comments, they should be specific, confined to issues pertinent to the proposed regulations, and explain the reason for any recommended change(s). We appreciate any and all comments, but those most useful and likely to influence decisions on the final program will be those that either involve personal experience or include citations to and analyses of SMCRA, its legislative history, its implementing regulations, case law, other pertinent State or Federal laws or regulations, technical literature, or other relevant publications.

We cannot ensure that comments received after the close of the comment period (see **DATES**) or sent to an address other than those listed (see **ADDRESSES**) will be included in the docket for this rulemaking and considered.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire

comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., CST on [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If you are disabled and need reasonable accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

Pursuant to Office of Management and Budget (OMB) Guidance dated October 12, 1993, the approval of state program amendments is exempted from OMB review under Executive Order 12866.

Other Laws and Executive Orders Affecting Rulemaking

When a State submits a program amendment to OSMRE for review, our regulations at 30 CFR 732.17(h) require us to publish a notice in the Federal Register indicating receipt of the proposed amendment, its text or a summary of its terms, and an opportunity for public comment. We conclude our review of the proposed amendment after the close of the public comment period and determine whether the amendment

should be approved, approved in part, or not approved. At that time, we will also make the determinations and certifications required by the various laws and executive orders governing the rulemaking process and include them in the final rule.

List of Subjects in 30 CFR Part 916

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 16, 2019.

Alfred L. Clayborne, Regional Director,

Mid-Continent Region.

[FR Doc. 2019-14334 Filed: 7/3/2019 8:45 am; Publication Date: 7/5/2019]